

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSHUA FLYNN, Individually and on Behalf) Case No.: 1:19-cv-08209
of All Others Similarly Situated,)
Plaintiff,) CLASS ACTION
vs.) Honorable Virginia M. Kendall
EXELON CORPORATION, et al.,)
Defendants.)

)

JOINT MOTION FOR ENTRY OF THIRD AMENDMENT TO THE AGREED
CONFIDENTIALITY ORDER

Lead Plaintiff Local 295 IBT Employer Group Pension Trust Fund (“Lead Plaintiff”), Defendants Exelon Corporation, Commonwealth Edison Company, Christopher M. Crane, Joseph Dominguez, William A. Von Hoene, Jr., and Anne R. Pramaggiore (collectively, “Defendants,” and with Lead Plaintiff, the “Parties”), and Intervenor United States of America (“United States” or “Government”), by and through their undersigned counsel, submit this Joint Motion for Entry of a Third Amendment to the Agreed Confidentiality Order, and in support thereof, state as follows:

1. On September 23, 2021, this Court granted the unopposed motion of the United States to intervene and stay discovery while the Parties and the Government negotiated a proposed protective order concerning certain discovery materials. *See* ECF 130 (granting ECF 127). Since then the Parties submitted an Agreed Confidentiality Order which has been extended and amended. *See* ECF 137, 146, 152, 155, 158.

2. The purpose of the orders has been to permit discovery to proceed in the civil case while delaying certain discovery in light of the Government’s concerns regarding the impact of discovery on pending criminal cases. The Second Confidentiality Order Amendment is currently set to expire on October 31, 2022.

3. Lead Plaintiff and the Government remain in dispute as to the full scope of permissible discovery in this action. However, they have reached agreement on a Third Amendment to the Agreed Confidentiality Order (“Proposed Third Amendment”). Like the prior agreed orders, the Proposed Third Amendment permits Lead Plaintiff to pursue certain additional discovery, including Government communications with the Defendants in this action through December 31, 2019, while deferring resolution of remaining discovery disputes. By its terms, the Proposed Third Amendment would expire in May 2023, following the Government’s trial in a related criminal action, *United States v. McClain, et al.*, No. 1:20-cr-00812 (N.D. Ill.).

WHEREFORE, Lead Plaintiff, Defendants, and the United States respectfully request that this Court enter the Proposed Third Amendment.¹

DATED: October 14, 2022

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¹ Pursuant to this Court's policies, a Word version of the Proposed Third Amendment is being concurrently submitted to the Court's proposed orders inbox.

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on October 14, 2022, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the email addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Frank A. Richter

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Manual Notice List

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